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EXAMINER

DARROW, JUSTIN T

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/534,756

Applicant(s)

TA ET AL.

Examiner

Justin T. Darrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on *through 09/27/2002*.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 13-28 and 30-33 is/are rejected.
- 7) ☒ Claim(s) 5, 11, 12, 29 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2, 4, 5, 6, 7, 8.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Claims 1-34 have been presented for examination.

Priority

2. Acknowledgment is made that the instant application is a continuation-in-part of Application No. 09/178,529, filed 10/23/1998, now U.S. Patent No. 6,519,700 B1.

3. Under 35 U.S.C. 120, a claim in a U.S. application is entitled to the benefit of the filing date of an earlier filed U.S. application if the subject matter of the claim is disclosed in the manner provided by 35 U.S.C. 112, first paragraph, in the earlier filed application. See MPEP § 201.11 I. and *Tronzo v. Biomet*, 156 F.3d 1154, 47 USPQ2d 1829 (Fed. Cir. 1998).

Priority is not granted for claims 1-34 with respect to Application No. 09/178,529, filed 10/23/1998, because the subject matter of the claims is not disclosed in the manner provided by 35 U.S.C. 112, first paragraph, in the earlier filed application.

As per claims 1-12, Application No. 09/178,529 neither describes nor enables the limitation:

polarizing the system resource in accordance with a second polarization scheme using the polarization seed (see page 10, lines 10-17; figure 4, items 410, 412, 418, and 420; the “polarization” step adapted to secure the document includes receiving a polarization key as a polarization seed from the user’s system and transforming the document in a single polarization scheme to a version having polarized contents, comprising; see page 5, lines 1-6; a document with a set of permissions and an executable code segment that includes most of the software necessary to extract and use the encrypted document contents, as the system resource).

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In Application No. 09/178,529, the polarization of the digital work and the system resource is described and enabled as facilitated in a single step in the same polarization scheme with the polarization seed.

As per claims 13-23, Application No. 09/178,529 neither describes nor enables the limitation:

a system resource comprising a copy of a portion of the digital work's resource information, wherein the system resource has been polarized in accordance with a second polarization scheme using the polarization seed (see page 10, lines 10-17; figure 4, items 410, 412, 418, and 420; the "polarization" step adapted to secure the document includes receiving a polarization key as a polarization seed from the user's system and transforming the document in a single polarization scheme to a version having polarized contents, comprising; see page 5, lines 1-6; a document with a set of permissions and an executable code segment, as the digital work's resource information, that includes most of the software necessary to extract and use the encrypted document contents, as the system resource).

In Application No. 09/178,529, the polarization of the digital work and the system resource is described and enabled as facilitated in a single step in the same polarization scheme with the polarization seed.

As per claims 24-29 and 30-34, Application No. 09/178,529 neither describes nor enables the limitation:

providing a polarized system resource, wherein the system resource has been polarized in accordance with a second polarization scheme using the polarization seed (see page 10, lines 10-17; figure 4, items 410, 412, 418, and 420; the "polarization" step adapted to secure the

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document includes receiving a polarization key as a polarization seed from the user's system and transforming the document in a single polarization scheme to a version having polarized contents, comprising; see page 5, lines 1-6; a document with a set of permissions and an executable code segment that includes most of the software necessary to extract and use the encrypted document contents, as the system resource).

In Application No. 09/178,529, the polarization of the digital work and the system resource is described and enabled as facilitated in a single step in the same polarization scheme with the polarization seed.

Information Disclosure Statements

4. The information disclosure statements filed 07/14/2000, 11/16/2001, and 08/30/2002, fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent and patent application; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. In addition to the information disclosure statements filed 08/07/2002, 08/09/2002, and 09/27/2002, they have been placed in the application file, the information referred to therein with copies of references provided has been considered, and an initialed copies of all of the information disclosure statements have been attached to this Office action.

Drawings

5. The drawings filed on 03/24/2000 are acceptable subject to correction of the informalities indicated on the "Notice of Draftperson's Patent Drawing Review," PTO-948, attached to this

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Office action. Formal drawings with corrections must be made in reply to this Office action.

See 37 CFR 1.85(a).

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 13-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 13-23 are drawn to a disembodied data structure devoid of physical embodiment and therefore, is nonstatutory under 35 U.S.C. 101 because a disembodied data structure is not a category of subject matter recited in 35 U.S.C. 101 (i.e. a process, machine, manufacture, composition of matter, or an improvement thereof). See *In re Warmerdam*, 31 USPQ2d 1754, 1760. See MPEP § 2106 IV. B. 1(a). See <http://www.uspto.gov/web/menu/pbmethod/> (35 U.S.C. 101 Training Materials).

Claims 13-23 are drawn to nonfunctional descriptive material. The claimed element of a digital work is nonfunctional descriptive material. Digital works and resource information are described in the specification as descriptive material that cannot exhibit any functional interrelationship with the way in which computing processes are performed (see specification page 13, lines 1-4; digital works as documents, text, audio files, graphics files, and video files; page 10, lines 19-23; resource information as a collection of nonexecutable system resources

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available to the replay software on a particular system, such as the Font Table, Color Palette, System Coordinates, and Volume Setting). See MPEP § 2106 IV. B. 1(b). See

<http://www.uspto.gov/web/menu/pbmethod/> (35 U.S.C. 101 Training Materials), pages 30-34.

To expedite a complete examination of the application, the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1-3, 7, 10, 13-15, 19, 22, 24-27, and 30-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Moskowitz, U.S. Patent No. 6,598,162 B1.

As per claim 1, Moskowitz discloses a method of creating a polarized digital work, including digital content and resource information (see column 6, lines 17-21; a Compact Disc-Digital Audio (CD-DA) format frame containing digital samples (music) and file format information), comprising:

generating a polarization seed for use in the polarization scheme [see specification, page 8, lines 18-19; processing scheme cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] (see column 5, lines 41-47; generating a key used to scramble digital information; see column 5, lines 64-67; to form a partially “scrambled” copy for distribution);

generating a system resource by copying a portion of the digital work’s resource information, where the system resource includes resource information specific to the digital work for use by the application (see column 6, lines 19-24; see figure 1, item 110; selecting some of the header information containing file format information); and

polarizing [see specification, page 8, lines 18-19; processing cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] the digital work in accordance with a first polarization scheme which polarizes the digital content while preserving the resource information, using the polarization seed (see column 6; lines 30-32; see figure 1, item 130; scramble some of the digital samples while leaving header information alone; see column 5, lines 61-67; using the predetermined key);

polarizing [see specification, page 8, lines 18-19; processing cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] the system

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resource in accordance with a second polarization scheme using the polarization seed (see column 6, lines 21-25; see figure 1, step 120; scrambling some of the header information using the predetermined key);

where an application uses the polarized system resource to transform the polarized digital work into clear presentation data (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the digital information before playing where the digital signal is protected by manipulating data at the inherent granularity, or “frames,” of the CD-DA file format).

As per claim 2, Moskowitz further suggests:

that the first polarization scheme and the second polarization scheme are the same (see column 5, lines 61-67; data representing the original content is partially “scrambled”; see column 6, lines 17-21; where each frame contains music and format information);

As per claim 3, Moskowitz additionally points out:

that the polarization seed comprises a random number (see column 5, lines 41-45; a randomly generated key).

As per claim 7, Moskowitz then describes:

a document comprising digital content and format information (see column 6, lines 17-21; the Compact Disc-Digital Audio (CD-DA) format storing digital samples of audio information and a header containing file format information).

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As per claim 10, Moskowitz further points out:

a digital work comprising an audio stream and resource information (see column 6, lines 17-22; the Compact Disc-Digital Audio (CD-DA) format with audio information and format information; see column 6, lines 3-7; in the AIFF and WAV audio formats).

However, Moskowitz does not explicitly show resource information that comprises sample rate, sample type, and sample form. Thus, this feature of resource information that comprises sample rate, sample type, and sample form is deemed to be inherent in the method of Moskowitz. Dictionaries in the technological art are objective resources of established meanings of claim terms. See *Texas Digital Systems, Inc. v. Telegenix, Inc.*, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002). The Microsoft Press Computer Dictionary, 3rd Edition, discusses AIFF as a sound format (see page 19, AIFF); and WAV as a sound format with volume and amplitude variation (see page 505, WAV and waveform), with sample rate, sample type, and sample form (see page 418, sampling; a sample rate expressed in samples per second, a digital sample derived from input from a microphone, and sample precision of the discreteness in 8-bit samples with the measured range). The method of Moskowitz would be inoperative if the of resource information did not comprise sample rate, sample type, and sample form.

As per claim 13, Moskowitz describes a protected digital work comprising:

a digital work, including digital content and resource information (see column 6, lines 17-21; a Compact Disc-Digital Audio (CD-DA) format frame containing digital samples (music) and file format information),

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where the digital content has been polarized scheme [see specification, page 8, lines 18-19; processed in a scheme cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] in accordance using a polarization seed while preserving the resource information (see column 5, lines 65-67; a partially “scrambled” copy of the content for distribution; see column 6; lines 30-32; see figure 1, item 130; by scrambling some of the digital samples while leaving header information alone; see column 5, lines 61-67; using the predetermined key),

where the resource information is used by an application for transforming the digital content into presentation data (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the digital information before playing); and

a system resource comprising a copy of a portion of the digital work’s resource information (see column 6, lines 19-24; see figure 1, item 110; selecting some of the header information containing file format information),

wherein the system resource has been polarized [see specification, page 8, lines 18-19; processed cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] in accordance with a second polarization scheme using the polarization seed (see column 6, lines 21-25; see figure 1, step 120; scrambling some of the header information using the predetermined key); and

wherein the application uses the polarized system resource to transform the polarized digital work into clear presentation data without revealing the digital content (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the

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digital information before playing where the digital signal is protected by manipulating data at the inherent granularity, or “frames,” of the CD-DA file format).

As per claim 14, Moskowitz further suggests:

that the first polarization scheme and the second polarization scheme are the same (see column 5, lines 61-67; data representing the original content is partially “scrambled”; see column 6, lines 17-21; where each frame contains music and format information);

As per claim 15, Moskowitz additionally points out:

that the polarization seed comprises a random number (see column 5, lines 41-45; a randomly generated key).

As per claim 19, Moskowitz then describes:

a document comprising digital content and format information (see column 6, lines 17-21; the Compact Disc-Digital Audio (CD-DA) format storing digital samples of audio information and a header containing filed format information).

As per claim 22, Moskowitz further points out:

a digital work comprising an audio stream and resource information (see column 6, lines 17-22; the Compact Disc-Digital Audio (CD-DA) format with audio information and format information; see column 6, lines 3-7; in the AIFF and WAV audio formats).

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However, Moskowitz does not explicitly show resource information that comprises sample rate, sample type, and sample form. Thus, this feature of resource information that comprises sample rate, sample type, and sample form is deemed to be inherent in the method of Moskowitz. Dictionaries in the technological art are objective resources of established meanings of claim terms. See *Texas Digital Systems, Inc. v. Telegenix, Inc.*, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002). The Microsoft Press Computer Dictionary, 3rd Edition, discusses AIFF as a sound format (see page 19, AIFF); and WAV as a sound format with volume and amplitude variation (see page 505, WAV and waveform), with sample rate, sample type, and sample form (see page 418, sampling; a sample rate expressed in samples per second, a digital sample derived from input from a microphone, and sample precision of the discreteness in 8-bit samples with the measured range). The method of Moskowitz would be inoperative if the of resource information did not comprise sample rate, sample type, and sample form.

As per claim 24, Moskowitz illustrates a method of protecting a digital work during replay (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the digital information before playing where the digital signal is protected by manipulating data at the inherent granularity, or “frames,” of the CD-DA file format),

wherein the digital work comprises digital content and resource information (see column 6, lines 17-21; a Compact Disc-Digital Audio (CD-DA) format frame containing digital samples (music) and file format information),

comprising:

providing a replay application, wherein the replay application uses resource information to transform digital content into presentation data (see column 6, lines 11-13; a plug-in digital player for playing encoded content; column 6, lines 17-21; with file format information);

providing a polarization [see specification, page 8, lines 18-19; processing scheme cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] seed (see column 5, lines 41-47; generating a key used to scramble digital information; see column 5, lines 64-67; to form a partially “scrambled” copy for distribution);

providing a polarized [see specification, page 8, lines 18-19; processed cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] digital work, wherein the digital content has been polarized in accordance with a first polarization scheme which polarizes the digital content using the polarization seed while preserving the resource information (see column 6; lines 30-32; see figure 1, item 130; scramble some of the digital samples while leaving header format information alone; see column 5, lines 61-67; using the predetermined key),

wherein the resource information is used by the application for transforming the digital content into presentation data (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the digital information before playing where the digital signal is protected by manipulating data at the inherent granularity, or “frames,” of the CD-DA file format);

providing a polarized [see specification, page 8, lines 18-19; processed cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] system resource, wherein the system resource has been polarized in accordance with a second

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polarization scheme using the polarization seed (see column 6, lines 19-24; see figure 1, item 110; selecting some of the header information containing file format information; see column 6, lines 21-25; see figure 1, step 120; scrambling some of the header information using the predetermined key); and

executing the replay application, wherein the replay application uses the polarization system resource to transform the polarized digital work into presentation data (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the digital information before playing where the digital signal is protected by manipulating data at the inherent granularity, or “frames,” of the CD-DA file format).

As per claim 25, Moskowitz further suggests:

that the first polarization scheme and the second polarization scheme are the same (see column 5, lines 61-67; data representing the original content is partially “scrambled”; see column 6, lines 17-21; where each frame contains music and format information);

As per claim 26, Moskowitz next explains:

providing the presentation data to an output device (see column 7, lines 48-51; descrambling the signal that is apparent to a viewer or a player or possessor of the authenticating key).

As per claim 27, Moskowitz additionally points out:

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that the polarization seed comprises a random number (see column 5, lines 41-45; a randomly generated key).

As per claim 30, Moskowitz depicts a method of protecting a digital work during replay (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the digital information before playing where the digital signal is protected by manipulating data at the inherent granularity, or "frames," of the CD-DA file format),

wherein the digital work comprises digital content and resource information (see column 6, lines 17-21; a Compact Disc-Digital Audio (CD-DA) format frame containing digital samples (music) and file format information),

comprising:

providing a first replay application, wherein the first replay application uses resource information to transform digital content into presentation data (see column 6, lines 11-13; a plug-in digital player for playing encoded content; column 6, lines 17-21; with file format information);

providing a second replay application, wherein the second replay application uses resource information to transform presentation data into image data for display on an output device (see column 7, lines 48-51; descrambling the signal that is apparent to a viewer or a player with a player application for rendering image data);

providing a polarization [see specification, page 8, lines 18-19; processing scheme cryptographically less secure than the encryption used for distribution, but serving to deter casual

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copying] seed (see column 5, lines 41-47; generating a key used to scramble digital information; see column 5, lines 64-67; to form a partially “scrambled” copy for distribution);

providing a polarized [see specification, page 8, lines 18-19; processed cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] digital work, wherein the digital content has been polarized in accordance with a first polarization scheme which polarizes the digital content using the polarization seed while preserving the resource information (see column 6; lines 30-32; see figure 1, item 130; scramble some of the digital samples while leaving header format information alone; see column 5, lines 61-67; using the predetermined key),

wherein the resource information is used by the application for transforming the digital content into presentation data (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the digital information before playing where the digital signal is protected by manipulating data at the inherent granularity, or “frames,” of the CD-DA file format);

providing a polarized [see specification, page 8, lines 18-19; processed cryptographically less secure than the encryption used for distribution, but serving to deter casual copying] system resource, wherein the system resource has been polarized in accordance with a second polarization scheme using the polarization seed (see column 6, lines 19-24; see figure 1, item 110; selecting some of the header information containing file format information; see column 6, lines 21-25; see figure 1, step 120; scrambling some of the header information using the predetermined key);

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executing the first replay application, wherein the replay application uses the polarization system resource to transform the polarized digital work into presentation data (see column 6, lines 31-36; figure 1, steps 140 and 150; manipulating the data of the CD-DA file format to decode the digital information before playing where the digital signal is protected by manipulating data at the inherent granularity, or “frames,” of the CD-DA file format); and

executing the second replay application, wherein the second replay application uses the polarized system resource to transform the partially unpolarized presentation data into image data (see column 6, lines 37-58; a “plug-in” digital player of the broadcast signal streams without foreknowledge of the encoded media stream for playback of viewing).

As per claim 31, Moskowitz next explains:

providing the presentation data to an output device (see column 7, lines 48-51; descrambling the signal that is apparent to a viewer or a player or possessor of the authenticating key).

As per claim 32, Moskowitz additionally points out:

that the polarization seed comprises a random number (see column 5, lines 41-45; a randomly generated key).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 16, 28, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moskowitz, U.S. Patent No. 6,598,162 B1 as applied to claims 1, 13, 24, and 30, respectively, above, and further in view of Searle, U.S. Patent No. 6,683,954 B1.

Moskowitz discloses the methods of claim 1, 24, and 30, and the protected digital work of claim 13. However, he does not explicitly teach that the polarization seed comprises a system characteristic of the user's system. Searle points out:

that the polarization seed comprises a system characteristic of the user's system (see column 5, lines 48-64; figure 1, item 106; an identifier of the system component that uniquely identifies a client computer is used as a key).

Therefore, it would have been obvious to one of ordinary skill in the computer art at the time the invention was made to combine the methods and protected digital work of Moskowitz with the system characteristic of the user's system of Searle because such a key derived from the system characteristic of the user's system facilitates successful decryption performed on the user's system and unsuccessful decryption performed on a different computer (see column 5, lines 65-67; column 6, line 1; figure 1, items 102 and 104).

11. Claims 6 and 9; and 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moskowitz, U.S. Patent No. 6,598,162 B1 as applied to claims 1 and 13, respectively, above, and further in view of Markandey et al., U.S. Patent No. 6,526,144 B2.

As per claim 6, Moskowitz discloses the method of claim 1 and the protected digital work of claim 13. However, he does not explicitly teach that the polarization seed comprises a dynamic system characteristic of the user's system. Markandey et al. discuss:

that the polarization seed comprises a dynamic system characteristic of a user's system, which varies as a function of time (see column 13, lines 64-65; random number generation is used in the transmitter and receiver for Diffie-Hellman and X9.17 key generation; see column 3, lines 40-57; for the ANSI X9.17 key generation standard for the Data Encryption Standard (DES); see column 14, lines 5-6; using seeds for a pseudo-random number generator (PRNG) are created by using the system clock or some permutation of the system clock), and the encryption system context using the dynamic system characteristic each time the application is accessed for transformation of the digital work into presentation data (see column 12, lines 25-28; the receiver decrypting a transmitted encrypted key to use as a key for decrypting isochronous packets; see column 5, lines 41-58; containing DES encrypted MPEG-2 transport packet video data).

Therefore, it would have been obvious to one of ordinary skill in the computer art at the time the invention was made to combine the method and protected digital work of Moskowitz with the dynamic system characteristic of the user's system of Markandey et al. because this key generation technique serves to address the increase in protection of data to be communicated, balanced in terms of resource issues such as the cost and complexity of the protection structure and methods, as well as the likelihood of a wrongdoer overcoming the protection provided by such structure and methods (see column 1, lines 64-67 and column 2, lines 1-3).

As per claims 9 and 21, Markandey et al. discuss:

that the polarization seed comprises a dynamic system characteristic of an intended user system (see column 13, lines 64-65; random number generation is used in the transmitter and receiver for Diffie-Hellman and X9.17 key generation; see column 3, lines 40-57; for the ANSI X9.17 key generation standard for the Data Encryption Standard (DES); see column 14, lines 5-6; using seeds for a pseudo-random number generator (PRNG) are created by using the system clock or some permutation of the system clock).

Therefore, it would have been obvious to one of ordinary skill in the computer art at the time the invention was made to combine the method and protected digital work of Moskowitz with the dynamic system characteristic of the user's system of Markandey et al. because this key generation technique serves to address the increase in protection of data to be communicated, balanced in terms of resource issues such as the cost and complexity of the protection structure and methods, as well as the likelihood of a wrongdoer overcoming the protection provided by such structure and methods (see column 1, lines 64-67 and column 2, lines 1-3).

12. Claims 8 and 20 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Moskowitz, U.S. Patent No. 6,598,162 B1 in view of Moskowitz et al., U.S. Patent No. 5,745,569 A.

Moskowitz discloses the method of claim 1 and the protected digital work of claim 13. Although Moskowitz does not explicitly describe resource information that comprises an environment of resource elements including display coordinates, volume, color palette and font

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tables, he teaches file formats, such as PICT, TIFF, AIFF, WAV, etc. (see column 6, lines 3-7). Thus, this feature of resource elements including display coordinates, volume, color palette, and font tables is deemed to be inherent in the method of Moskowitz. Dictionaries in the technological art are objective resources of established meanings of claim terms. See *Texas Digital Systems, Inc. v. Telegenix, Inc.*, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002). The Mircrosoft Press Computer Dictionary, 3rd Edition, discusses the PICT format with bitmapped graphics (see page 365, PICT) with dot patterns for all the characters in a font representing a bit image (see pages 52-53, bit image; page 53, bitmap, bitmapped graphics), utilizing display coordinates and a color palette (see page 351, paint program); the TIFF format with a gray-scale for graphic images (see page 468, TIFF); AIFF as a sound format (see page 19, AIFF); and WAV as a sound format with volume and amplitude variation (see page 505, WAV and waveform). The method of Moskowitz would be inoperative if the resource elements did not include display coordinates, volume, color palette and font tables.

Moskowitz et al. describe:

a document comprising an environment of resource elements including display coordinates, color palette and font tables (see column 2, lines 56-60; font, or typeface, resources included in documents, which determine how a bitmap representation of the document is ultimately drawn on a presentation device) (see Mircrosoft Press, page 351, paint program; utilizing display coordinates and a color palette) as well a volume (see column 2, lines 10-14; audio “digial products”) (see Mircrosoft Press, page 505, WAV and waveform; with volume and amplitude variation).

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Therefore, it would have been obvious to one of ordinary skill in the computer art at the time the invention was made to combine the method and protected digital work of Moskowitz with the document comprising an environment of resource elements including display coordinates, color palette and font tables of Moskowitz et al. to establish methods of copyright protection that can be combined with such schemes as software metering, network distribution of code, and specialized protection of software designed to work over a network (see column 2, lines 45-54).

Allowable Subject Matter

13. Claims 5, 11, 12, 29, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter:

Claims 5, 29, and 34 are drawn to a method of creating a polarized digital work and a method of protecting a digital work during replay, respectively. The closest prior art, Moskowitz, U.S. Patent No. 6,598,162 B1 in view of Abraham et al., U.S. Patent No. 5,148,481 A, discloses a similar methods. Although Abraham et al. describes encrypting data keys with a host master key entered by the security administrator on behalf of the user (see column 13, lines 31-39; a security administrator entering a host master key into the network security processor for a user, with node master keys encrypted by the host master key), neither Moskowitz nor Abraham et al. teach or suggest a polarization seed comprising an authorization code for a user

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received from a trusted source. This particular feature explicitly recited in dependent claims 5, 29, and 34 renders them to have allowable subject matter.

Claim 11 is drawn to a method of creating a polarized digital work. The closest prior art, Moskowitz, U.S. Patent No. 6,598,162 B1, discloses a similar method. Although Moskowitz discusses audio content and resource information (see column 8, lines 3-8; in AIFF and WAV formats) and image media (see column 8, lines 3-8; in TIFF, PICT, JPEG, and GIF formats), he neither shows nor implies a video stream and resource information comprising sample rate, sample type, and sample form. This distinct feature explicitly recited in dependent claim 11 renders it to have allowable subject matter.

Claim 12 is drawn to a method of creating a polarized digital work. The closest prior art, Moskowitz, U.S. Patent No. 6,598,162 B1, discloses a similar method. Although Moskowitz discusses audio content and resource information (see column 8, lines 3-8; in AIFF and WAV formats) and image media (see column 8, lines 3-8; in TIFF, PICT, JPEG, and GIF formats), he neither describes nor motivates a first audio/video stream and a second audio/video stream and where the first audio/video stream is polarized and further comprising mixing the polarized first audio/video stream with the second audio/video stream.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Rucklidge et al., U.S. Patent No. 6,449,718 B1, discloses a technique that partially encrypts tokenized documents by encrypting the token compression parameters with a public key and separately encoding the compressed content.

Telephone Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin T. Darrow whose telephone number is (703) 305-3872 and whose electronic mail address is justin.darrow@uspto.gov. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barrón, Jr., can be reached at (703) 305-1830.

The fax number for Formal or Official faxes to Technology Center 2100 is (703) 872-9306. In order for a formal paper transmitted by fax to be entered into the application file, the paper and/or fax cover sheet must be signed by a representative for the applicant. Faxed formal papers for application file entry, such as amendments adding claims, extensions of time, and statutory disclaimers for which fees must be charged before entry, must be transmitted with an authorization to charge a deposit account to cover such fees. It is also recommended that the cover sheet for the fax of a formal paper have printed "**OFFICIAL FAX**". Formal papers transmitted by fax usually require three business days for entry into the application file and consideration by the examiner. Formal or Official faxes including amendments after final rejection (37 CFR 1.116) should be submitted to (703) 872-9306 for expedited entry into the application file. It is further recommended that the cover sheet for the fax containing an

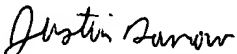
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amendment after final rejection have printed not only **"OFFICIAL FAX"** but also **"AMENDMENT AFTER FINAL"**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

April 19, 2004


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